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EXAMINER

KARLS, SHAY LYNN

ART UNIT	PAPER NUMBER
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1744

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

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GROUP 1700

Application Number: 10/037,548
Filing Date: January 04, 2002
Appellant(s): KORENEVSKY, LEV

Lev Korenevsky
For Appellant

**SUPPLEMENTAL
EXAMINER'S ANSWER**

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The reply brief filed 9/8/06 has been entered and considered. The application has been forwarded to the Board of Patent Appeals and Interferences for decision on the appeal.

Responsive to the reply brief under 37 CFR 41.41 filed on 9/8/06, a supplemental Examiner's Answer is set forth below:

This is in response to the appeal brief filed 8/29/05 (corrected 9/26/06) appealing from the Office action mailed 3/24/04, the reply brief filed 10/6/05 replying to the Examiner's Answer mailed 9/13/05 and the reply brief filed 9/8/06 replying to the Supplemental Examiner's Answer mailed 8/11/06.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is substantially correct. The changes are as follows: The final rejection of claim 9 is not under appeal and therefore, the rejection of claim 9 will be maintained. The rejection of claim 9 was included in the answer for clarity and consistency.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

2,766,473	Thackara	10-1956
4,467,509	Dezen	8-1984
3,745,624	Newman	7-1973

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1-3 and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Thackara (USPN 2766473).

Thackara teaches a paint roller frame comprising a shaft (11) having a handle (10) on one end and a roller cage mounted on the opposite end. The roller cage assembly is generally perpendicular to the handle portion. The roller cage has a bearing portion (16) and an outer portion (25). The bearing portion is mounted on the shaft that is passing through an opening in the bearing portion. The bearing portion has a supporting surface (17) to support the paint roller sleeve and an inner face (19) against which an inner end of the roller sleeve core can be urged to prevent the paint roller sleeve from axial sliding. The outer portion has a supporting surface (26) to support the paint roller

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sleeve and an outer face (28) against which an outer end surface of the roller sleeve core can be urged to prevent the paint roller sleeve from axially sliding. The bearing portion and the outer portion comprise a mating connection to ensure tight trapping of the core. The outer portion and the bearing portion are connected by means of an axle (13). The outer portion is connected to the axle by a u-shaped spring clamp (27) and the bearing portion is connected by means of a projection (22, 23). There are two resilient integral washers (17, 26) adjacent to the inner and outer faces to ensure a tight fit. The roller cage can be removed from the shaft for maintenance or replacement of parts.

Claims 1-4, 6 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Newman (USPN 3745624).

Newman teaches a paint roller frame comprising a shaft (10) having a handle (12) on one end and a roller cage mounted on the opposite end. The roller cage assembly is generally perpendicular to the handle portion. The roller cage has a bearing portion (26) and an outer portion (48). The bearing portion is mounted on the shaft that is passing through an opening in the bearing portion. The bearing portion has a supporting surface (26) to support the paint roller sleeve and an inner face (40) against which an inner end of the roller sleeve core can be urged to prevent the paint roller sleeve from axial sliding. The outer portion has a supporting surface (48) to support the paint roller sleeve and an outer face (56) against which an outer end surface of the roller sleeve core can be urged to prevent the paint roller sleeve from axially sliding. The bearing portion and the outer portion comprise a mating connection to ensure tight trapping of the core. The outer portion and the bearing portion are connected by means of an axle (18, 44). The outer portion is connected to the axle by projections on the axle (36) and the bearing portion is connected by means of a friction fit. There are two resilient integral washers (48, 56) adjacent to the inner and outer faces to ensure a tight fit. Additionally, there is another washer (38) adjacent the bearing portion. The length of the roller cage

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assembly is adjustable by repositioning of the roller cage parts allowing for the same roller frame with roller sleeves of different lengths. The roller cage can be removed from the shaft for maintenance or replacement of parts. Newman further teaches a hook that is located near the end of the shaft's handle portion that is closest to the roller sleeve.

Claims 1-4, 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Dezen (USPN 4467509).

Dezen teaches a paint roller frame comprising a shaft (30) having a handle on one end and a roller cage mounted on the opposite end. The roller cage assembly is generally perpendicular to the handle portion. The roller cage has a bearing portion (36) and an outer portion (40). The bearing portion is mounted on the shaft that is passing through an opening in the bearing portion. The bearing portion has a supporting surface (50) to support the paint roller sleeve and an inner face (46) against which an inner end of the roller sleeve core can be urged to prevent the paint roller sleeve from axial sliding. The outer portion has a supporting surface (66) to support the paint roller sleeve and an outer face (48) against which an outer end surface of the roller sleeve core can be urged to prevent the paint roller sleeve from axially sliding. The bearing portion and the outer portion comprise a mating connection to ensure tight trapping of the core. The outer portion and the bearing portion are connected by means of an axle (28). The outer portion and bearing portion are both connected to the axle by means of a circlip (60, 72). There are two resilient integral washers (46, 48) adjacent to the inner and outer faces to ensure a tight fit. Additionally, there are other washers (62, 74) adjacent the outer and bearing portion to further prevent leakage. The length of the roller cage assembly is adjustable by repositioning of the roller cage parts allowing for the same roller frame with roller sleeves of different lengths (abstract). The outer portion is adjusted axially to tightly grip the roller. The roller cage can be removed from the shaft for maintenance or replacement of parts.

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Claim 9 is rejected under 35 U.S.C. 102(b) as being anticipated by Jang et al. (USPN 5497527).

Jang teaches a paint roller shaft made of plastic (col. 2, line 34) to eliminate dark marks on walls as a result of occasional touching walls with the shaft.

(10) Response to Argument

The following Examiner's comments address the Appellant's arguments as they appear in the Appeal Brief.

With regards to claims 1-3 and 6 as being rejected by Thackara, the appellant argues that the two end units are *independently mounted on the shaft (axle, spindle) while in my design the end units are attached to each other via a mating connection*. The examiner would like to point out figures 1 and 2 of Thackara.

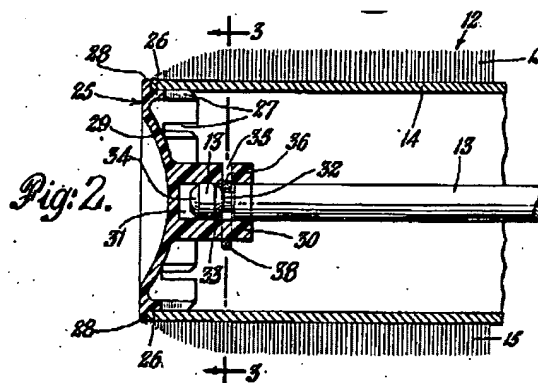
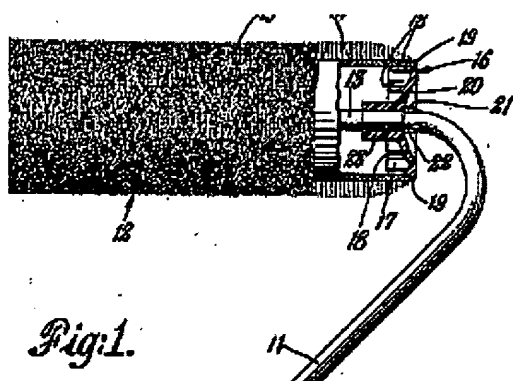


Figure 1 shows one end of the paint applicator and figure 2 shows the other end. The appellant is correct in stating that the end units of Thackara are independently mounted on the shaft, however the two end units are in mating connection with each other. The term "mating connection" does not limit the connection to being directly mated together. A mating connection could refer to

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any elements that are connected together by some means, whether it is directly or indirectly.

Thackara teaches end units that are indirectly connected.

With regard to claims 1-4, 6 and 8 as being rejected by Newman, the appellant argues that the two end units are *independently mounted on the shaft (axle, spindle) while in my design the end units are attached to each other via a mating connection*. The examiner would like to point to figure 2 of Newman.

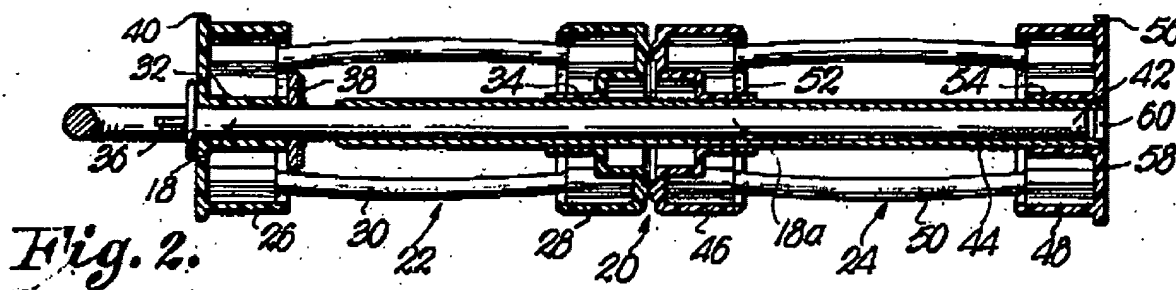


Figure 2 shows both ends of the paint applicator connected together by the shaft (18). The appellant is correct in stating that the end units of Newman are independently mounted on the shaft, however the two end units are in mating connection with each other. The term “mating connection” does not limit the connection to being directly mated together. A mating connection could refer to any elements that are connected together by some means, whether it is directly or indirectly. Newman teaches end units that are indirectly connected.

With regard to claims 1-4 and 6 as being rejected by Dezen, the appellant argues that the two end units are *independently mounted on the shaft (axle, spindle) while in my design the end units are attached to each other via a mating connection*. The examiner would like to point to figure 3 of Dezen.

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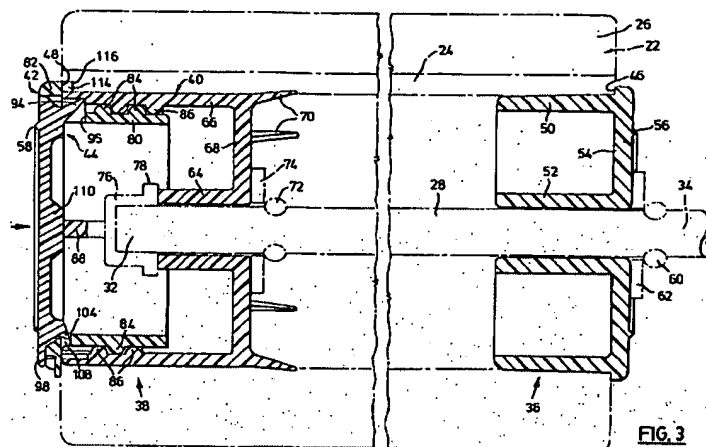


Figure 3 shows both ends of the paint applicator connected together by the shaft (28). The appellant is correct in stating that the end units of Dezen are independently mounted on the shaft, however the two end units are in mating connection with each other. The term “mating connection” does not limit the connection to being directly mated together. A mating connection could refer to any elements that are connected together by some means, whether it is directly or indirectly. Dezen teaches end units that are indirectly connected.

Additionally, the appellant argues that the above references are unable to achieve a strong permanent squeeze of the roller sleeve. The examiner would like to point out that the claims, specification or drawings do not point out what determines a strong permanent squeeze. The references must be capable of a strong permanent squeeze; otherwise the roller sleeve would not stay on the paint applicator, thus defeating the purpose of the paint applicator. There is no teaching that the squeeze provided by the appellants end units is any better or stronger than the squeeze provided by the prior art.

The appellant further argues that the basic idea of my invention is to directly connect the end units that squeeze the roller sleeve without any participation from the shaft or the sleeve.

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This argument provides limitations for the mating connection, however those limitations are not claimed. The claim language only states "mating connection," not a direct mating connection without any participation from the shaft or the sleeve. Therefore, since those limitations are not included in the claim, the term "mating connection" must be given the broadest reasonable interpretation. This includes any elements that are connected by some means, either directly or indirectly.

The following Examiner's comments address the Appellant's arguments as they appear in the Reply Brief dated 10/6/05.

With regards to the arguments presented by the appellant with respect to the Thackara reference:

The appellant argues that Thackara's patent does not teach washer but annular rings having a plurality of slots 18 and 27 therein. According to Merriam-Webster's dictionary, the definition of a washer is a flat thin ring or perforated plate used in joints or assemblies to ensure tightness, prevent leakage or relieve friction. This is exactly what elements 17 and 26 accomplish. The portions of the end cap (17 and 26), that the Examiner is referring to as the washer, is described in the specification as a thin annular ring having an outside diameter about equal to or slightly larger than the inside diameter of the sleeve and having a plurality of slots therein. The slots render the ring resilient so that the ring may firmly but releasably engage the sleeve (col. 2, lines 11-18 and lines 33-39). The description in the specification of elements 17 and 26 clearly reads on the definition of a washer in the dictionary. Since the washers of Thackara are used to firmly secure the solid end caps to the roller, and figure 2 shows that the end caps comprise a lip section (19, 28) overlapping the roller, it can be determined that the ends

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caps and thus the washers, not only firmly hold the roller but also prevent leakage inside the roller cage due to the lip on the end cap overlapping the roller and the tightness of the end caps in connection with the roller.

With regards to the argument presented by the appellant with respect to the Newman reference:

The appellant argues that Newman does not mention a hook or sealing and replacement of worn parts. While the reference does not explicitly state that a hook is located on the handle, it is clearly shown in figure 1 that the handle comprises a portion which could be used as a hook. The hook portion is located on the end of the handle adjacent the shaft 10. The hook could be used to hang the paint roller upside down on a nail or it could be used to support the paint roller on the lip of a paint bucket or tray. The appellant's claims do not provide any structural limitations which would exclude Newman's end of the handle portion from being a hook. Also Newman may not mention sealing or replacement of worn parts, however as described above, the washer (56) overlap the roller and therefore a tight connection between the washers and roller will prevent leakage inside the roller cage.

With regards to the argument presented by the appellant with regards to the Dezen reference:

The appellant argues that the core of Dezen can be tightly trapped between and sealed against annular faces (46, 48) on the inner end member 36 and the end cap 42. In this case, the washers (46 and 48) are integral with the end cap. The annular faces of Dezen act as washers between the end cap and core. The annular faces can be considered washers since they read on

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the limitations of the dictionary definition of a washer; they are a flat plates used to ensure tightness and prevent leakage.

The appellant also argues that the other washers (62 and 74) do not prevent leakage.

The other washers (62 and 74) are used to prevent movement of the end members (36 and 38) (col. 3, lines 36-68). By preventing movement of the end members, the washers are also, in turn, prevent leakage from occurring since leakage won't occur is the end members don't move. If the end members moved, then there could be leakage. Therefore, the washers (62 and 74) indirectly prevent leakage from occurring.

The following Examiner's comments address the Appellant's arguments as they appear in the Reply Brief dated 9/8/06. The Examiner is only addressing new arguments in the Reply Brief. All other arguments are responded to above.

The Appellant argues that *Thackara does not include a single word about washers and leakage prevention neither in the description, nor in the claim.* The Examiner would like to point out that Thackara meets all the structural limitations of the claim. While the claim states that the washer is used to prevent leakage, this is an intended use claim limitation. A recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. Since Thackara teaches the claimed structure, it would therefore be capable of performing the function.

The Appellant also argues that *Thackara does not teach that "the roller cage can be removed from the shaft for maintenance or replacement of parts."* As stated above, what it is

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removable for is also considered intended use. The fact that the roller cage of Thackara can be removed from the shaft meets the claim limitations and whatever is done with the roller cage after being removed is a recitation of intended use. A recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

The Appellant argues that Newman's handle is *completely different from what is proposed in my claim. The location of the hook...allows the roller frame to be mounted higher on a grid fastened in a paint bucket.* The claim includes limitations, which read on Newman's handle and hook. While it may be different than what is shown in the Appellants figures, there is no claim language to distinguish between the present invention and the prior art. The location of the hook on Newman's reference allows the paint roller to be positioned at the highest position possible for Newman invention. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Therefore since the claim does distinguish over the prior art of Newman, the rejection is maintained.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

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For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Shay Karls

Shay Karls

[Signature]
GLADYS JP CORCORAN
SUPERVISORY PATENT EXAMINER

Conferees:

Gladys Corcoran

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Appellant may file another reply brief in compliance with 37 CFR 41.41 within two months of the date of mailing of this supplemental examiner's answer. Extensions of time under 37 CFR 1.136(a) are not applicable to this two month time period. See 37 CFR 41.43(b)-(c).

A Technology Center Director or designee has approved this supplemental examiner's answer by signing below:

[Signature]
Gregory Mills
TQAS 1700